

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)	
)	Case No. CIV-18-830-W
Plaintiff,)	
)	
v.)	
)	
HARIMAU OIL AND GAS)	
CONSULTING, LLC,)	
)	
Defendant.)	
_____)	

COMPLAINT FOR FAILURE TO HONOR LEVY

Plaintiff, the United States, for its complaint against Defendant alleges:

Nature of the Suit

1. This is a civil action brought by the United States of America to obtain a money judgment against Defendant, Harimau Oil and Gas Consulting, LLC, pursuant to 26 U.S.C. §§ 6332(d)(1) and (2), for its failure or refusal to honor an IRS levy.

2. This action is commenced pursuant to 26 U.S.C. §§ 6332 and 7401 at the direction of the Attorney General of the United States with the authorization and at the request of the Chief Counsel of the Internal Revenue Service, a delegate of the Secretary of the Treasury.

Jurisdiction and Venue

3. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1340 and 1345, and 26 U.S.C. § 7402.

4. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(b) and 1396 because the Defendant's principal place of business is located within this judicial district.

Parties

5. Plaintiff is the United States of America.

6. Defendant is Harimau Oil and Gas Consulting, LLC ("Harimau").

Harimau's principal place of business is 6474 West Rock Creek Rd., Norman, Oklahoma 73072 which is within this judicial district.

7. Defendant Harimau is engaged in oil and gas consulting.

Factual Predicate for the IRS Levy: Richard Eutsler's Tax Liability

8. On the dates specified below, a delegate of the Secretary of the Treasury made assessments against Richard Eutsler for unpaid federal income tax liabilities, interest, and penalties for tax year 2007. The chart below identifies the assessments and provides the balances due (which include assessed and accrued but unassessed statutory additions, *e.g.*, interest, and any payments or credits) as of July 31, 2018:

Tax Year	Assessment Date	Assessed Amount	Balance Due as of July 31, 2018
2007	12/5/2011	\$311,576.28	
	10/22/2012	\$5,532.90	
	10/21/2013	\$18,212.57	
	11/30/2015	\$19,612.22	
	11/28/2016	\$8,266.31	
	11/27/2017	\$9,044.92	
			\$234,740.97

9. Notices of the assessments for tax year 2007 described in paragraph 8 and demands for payment were given to Richard Eutsler on or about the dates of the assessments.

10. Despite notice and demand for payment, Richard Eutsler has neglected, failed, or refused to fully pay the assessments described in paragraph 8.

11. On the dates specified below, a delegate of the Secretary of the Treasury made assessments against Richard and his spouse, Sharon Eutsler, for unpaid joint federal income tax liabilities, interest, and penalties for tax years 2008, 2009, 2010, and 2013. The chart below identifies the assessments and provides the balances due (which include assessed and accrued but unassessed statutory additions, *e.g.*, interest, and any payments or credits) as of July 31, 2018:

Tax Year	Assessment Date	Assessed Amount	Balance Due as of July 31, 2018
2008	6/30/2014	\$306,441.91	\$226,014.74
	11/27/2017	\$18,036.15	
2009	6/30/2014	\$223,068.74	\$163,435.99
	11/27/2017	\$12,850.79	
2010	6/30/2014	\$218,577.30	\$141,260.83
	11/27/2017	\$11,090.17	
2013	7/13/2015	\$136,301.46	\$128,135.33
	11/27/2017	\$27,186.88	

12. Notices of the assessments for tax years 2008, 2009, 2010, and 2013 described in paragraph 11 and demands for payment were given to Richard and Sharon Eutsler on or about the dates of the assessments.

13. Despite notice and demand for payment, Richard and Sharon Eutsler have neglected, failed, or refused to fully pay the assessments described in paragraph 11.

14. Once a taxpayer like the Richard Eutsler fails to pay his tax liability, the IRS is authorized under 26 U.S.C. § 6331(a) to levy upon all property and rights to property belonging to the taxpayer.

15. By virtue of the notices and demand referenced in paragraphs 9 and 12, and Richard Eutsler's failure to pay, federal tax liens arose on the dates of the assessments in favor of the United States against all property and rights to property of Richard Eutsler. *See* 26 U.S.C. §§ 6321, 6322.

16. On December 2, 2014, a delegate of the Secretary of the Treasury filed notices of federal tax lien against Richard Eutsler in Washington County, Oklahoma for tax years 2007, 2008, 2009, and 2010.

17. On August 17, 2015, a delegate of the Secretary of the Treasury filed a notice of federal tax lien against Richard and Sharon Eutsler in Washington County, Oklahoma for tax year 2013.

18. As of July 31, 2018, Richard Eutsler's balance due for tax years 2007, 2008, 2009, 2010, and 2013 was \$893,587.86, plus statutory additions accruing after that date.

The IRS's October 13, 2015 Notice of Levy

19. In 2015, 2016, and 2017, Richard or "Rick" Eutsler received compensation from Harimau in the form of wages, salary, or other income for his work as an oil and gas consultant.

20. Harimau paid Eutsler in at least three different ways during 2015, 2016, and 2017: (1) by check or wire transfer to Rick Eutsler; (2) by check or wire transfer made payable to Rick Eutsler, LLC; (3) by check or wire transfer made payable to Bartlesville Consulting, a trade name or "d/b/a" name used by Eutsler.

21. On October 13, 2015, the IRS issued and mailed Form 668-W (ICS) (Notice of Levy on Wages, Salary, and Other Income) to Harimau. This Notice of Levy sought to collect Richard Eutsler's federal tax liability for tax years 2007, 2009 and 2010, as described in paragraphs 8 and 11 above.

22. The October 13, 2015 Notice of Levy required Harimau to surrender all property and rights to property in its possession that belonged to Richard Eutsler, or was obligated to pay Richard Eutsler as of the levy date, up to the amounts stated in the Notice of Levy.

23. The October 13, 2015 Notice of Levy set forth Richard Eutsler's federal income tax liability for the 2007, 2009 and 2010 tax years, calculated to be \$501,288.43 as of November 12, 2015.

24. In 2015 through 2017, Kendra Wesson was the CFO of Harimau.

25. Kendra Wesson knew about the October 13, 2015 levy on or shortly after the date that the IRS mailed it to Harimau.

26. Kendra Wesson executed the levy acknowledgement on the Form 668-W stating that she received the levy on November 10, 2015 and that the "Tax payer [sic] was never an employee."

27. In 2015 through 2017, David Strickland was an owner of Harimau.

28. David Strickland knew about the October 13, 2015 levy on or shortly after the date that the IRS mailed it to Harimau.

29. On October 27, 2015, an IRS employee sent a letter to David Strickland at his address in Katy, Texas advising Harimau that the IRS was aware that Eutsler was

trying to circumvent the levy by creating Rick Eutsler, LLC and directing or requesting Harimau pay his wages, salary or other income in the name of Rick Eutsler, LLC. The IRS further advised Harimau that failure to honor the levy could result in Harimau owing the amount that should have been paid to the IRS plus a 50% penalty. The IRS also requested any contracts between Harimau and Rick Eutsler, LLC.

30. On June 6, 2017, an IRS employee personally handed to Kendra Wesson, the CFO of Harimau, a Final Demand for Payment (Form 668-C) with respect to the October 13, 2015 Notice of Levy for the unpaid federal tax liability of Richard Eutsler described in paragraph 18 above for tax years 2007, 2009 and 2010.

31. Notwithstanding the notice of levy and final demand for payment, Harimau has failed to turn over Richard Eutsler's property or rights to property in its possession. Harimau's failure, which continues to date, violates I.R.C. § 6332(a).

The IRS's April 27, 2016 Successor-In-Interest/Alter Ego Notice of Levy

32. On April 27, 2016, the IRS issued and mailed Form 668-W (ICS) (Notice of Levy on Wages, Salary, and Other Income) to Harimau in the name of Rick Eutsler, LLC, as Successor-In-Interest/Alter Ego of Richard Eutsler. This Notice of Levy sought to collect Richard Eutsler's federal tax liability for tax years 2007, 2008 and 2013, as described in paragraphs 8 and 11 above.

33. The April 27, 2016 Notice of Levy required Harimau to surrender all property and rights to property in its possession that belonged to Rick Eutsler, LLC, or was obligated to pay Rick Eutsler, LLC as of the levy date, up to the amounts stated in the Notice of Levy.

34. The April 27, 2016 Notice of Levy set forth Richard Eutsler's federal income tax liability for the 2007, 2008 and 2013 tax years, calculated to be \$578,836.78 as of May 27, 2016.

35. Kendra Wesson knew about the April 27, 2016 levy on or shortly after the date that the IRS mailed it to Harimau.

36. On June 6, 2017, an IRS employee personally handed to Kendra Wesson, the CFO of Harimau, a Final Demand for Payment (Form 668-C) with respect to the April 27, 2016 Successor-In-Interest/Alter Ego Notice of Levy for the unpaid federal tax liability of Richard Eutsler described in paragraph 18 above for tax years 2007, 2008, and 2013.

37. Notwithstanding the notice of levy and final demand for payment, Harimau has failed to turn over Rick Eutsler, LLC's property or rights to property in its possession. Harimau's failure, which continues to date, violates I.R.C. § 6332(a).

Harimau's Liability for Failing to Honor the Notices of Levy

38. Since receiving the October 13, 2015 Notice of Levy, Harimau has paid compensation to Richard Eutsler, Rick Eutsler LLC, and/or Bartlesville Consulting (both of which are alter egos or successors-in-interest to Richard Eutsler and known to Harimau as entities of Richard Eutsler) in the amounts set forth below:

Payment Date	Payee	Payment Amount	Payment Method
10/21/2015	Rick Eustler, LLC	\$9,431.00	Wire Transfer
10/27/2015	Rick Eustler, LLC	\$17,051.00	Wire Transfer
4/5/2016	Rick & Sharon Eutsler	\$3,703.00	Wire Transfer
4/8/2016	Rick Eutsler, LLC	\$3,703.00	Wire Transfer
4/25/2016	Rick Eutsler, LLC	\$1,300.00	Wire Transfer
5/2/2016	Rick Eutsler, LLC	\$5,503.30	Wire Transfer

12/22/2016	Bartlesville Consulting	\$7,218.48	Check
12/22/2016	Bartlesville Consulting	\$28,612.50	Check
1/5/2017	Bartlesville Consulting	\$4,524.00	Check
1/11/2017	Bartlesville Consulting	\$8,508.00	Check
1/17/2017	Bartlesville Consulting	\$8,429.16	Check
2/7/2017	Bartlesville Consulting	\$8,489.10	Check
2/14/2017	Bartlesville Consulting	\$8,475.60	Check
2/14/2017	Bartlesville Consulting	\$8,451.30	Check
2/28/2017	Bartlesville Consulting	\$8,491.80	Check
3/8/2017	Bartlesville Consulting	\$8,635.44	Check
3/8/2017	Bartlesville Consulting	\$8,486.40	Check
3/9/2017	Bartlesville Consulting	\$8,511.78	Check
3/21/2017	Bartlesville Consulting	\$6,961.70	Check
3/21/2017	Bartlesville Consulting	\$4,037.40	Check
4/3/2017	Bartlesville Consulting	\$9,179.38	Check
4/4/2017	Bartlesville Consulting	\$9,276.58	Check
Total		\$186,979.92	

39. Upon information and belief, Harimau continued to pay Richard Eutsler, through his trade name, Bartlesville Consulting, after April 4, 2017.

40. Harimau is aware that the trade name, Bartlesville Consulting, is an alter ego of Richard Eutsler as evidenced by the memo lines of checks issued from Harimau to Bartlesville Consulting which stated: “Rick Eutsler, 12421 N 3980 Road, Dewey, OK 74029.”

41. During 2015, 2016, and 2017 Harimau did not have any contracts with Rick Eutsler, LLC or Bartlesville Consulting.

42. The payments that Harimau made to Richard Eutsler, Rick Eutsler, LLC and Bartlesville Consulting, including any payments made after April 4, 2017, were subject to the October 13, 2015 Notice of Levy and/or the April 27, 2016 Successor-In-Interest/Alter Ego Notice of Levy.

43. Harimau has refused to pay to the IRS Richard Eutsler's compensation, which was subject to the October 13, 2015 Notice of Levy and/or the April 27, 2016 Successor-In-Interest/Alter Ego Notice of Levy.

44. As a result of its failure to honor the October 13, 2015 Notice of Levy and the April 27, 2016 Successor-In-Interest/Alter Ego Notice of Levy, Harimau is indebted to the United States, pursuant to 26 U.S.C. § 6332(d)(1) in an amount equal to the sum of the value of the property not surrendered, plus costs and interest thereon from the date of service of the notices of levy.

45. Under 26 U.S.C. § 6332(d)(2), anyone who fails to honor a levy without reasonable cause is liable for a penalty of 50% of the amount due pursuant to the levy.

46. Harimau did not have reasonable cause for failing to honor the October 13, 2015 Notice of Levy. Harimau did not have reasonable cause for failing to honor the April 27, 2016 Successor-In-Interest/Alter Ego Notice of Levy.

WHEREFORE, the United States respectfully requests the following relief:

A. That the Court direct Harimau Oil and Gas Consulting, LLC to furnish an accounting of the property or rights to property of Richard Eutsler (whether solely in his name or in the name of Rick Eutsler, LLC or Bartlesville Consulting) in its possession, including payments owed Richard Eutsler as of the date of the Notice of Levy served on October 13, 2015 and furnish an accounting of those payments made to Richard Eutsler (whether paid to him directly or to Rick Eutsler, LLC or Bartlesville Consulting) after the Notice of Levy served on October 13, 2015.

B. That the Court enter judgment in favor of the United States and against Harimau Oil and Gas Consulting, LLC, pursuant to 26 U.S.C. § 6332(d)(1), in the amount equal to the sum of the value of the property or rights to property not surrendered to the United States belonging to Richard Eutsler (whether solely in his name or in the name of Rick Eutsler, LLC or Bartlesville Consulting) as reflected in the accounting set forth in paragraph A in an amount not to exceed Richard Eutsler's unpaid liability, as set forth in paragraph 18, above, of \$893,587.86 as of July 31, 2018 plus statutory additions accruing after July 31, 2018.

C. That the Court enter judgment in favor of the United States and against Harimau Oil and Gas Consulting, LLC, pursuant to 26 U.S.C. § 6332(d)(2) for a penalty equal to 50 percent of the amount recoverable in paragraph B, above.

D. That the Court grant the United States its costs and such other and further relief as the Court deems just and proper.

Dated: August 27, 2018

Respectfully submitted,

RICHARD E. ZUCKERMAN
Principal Deputy Assistant Attorney
General

/s/ Erin R. Hines
ERIN R. HINES
Trial Attorney, Tax Division
U.S. Department of Justice
P.O. Box 7238
Ben Franklin Station
Washington, D.C. 20044
Telephone: (202) 514-6619
Facsimile: (202) 514-6770
Email: Erin.R.Hines@usdoj.gov

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

United States of America

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)
Erin R. Hines, Trial Attorney, U.S. Department of Justice, Tax Division,
PO Box 7238, Washington, DC 20044
(202) 514-6619

DEFENDANTS

Harimau Oil & Gas Consulting, LLC

County of Residence of First Listed Defendant Cleveland
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☒ 1 U.S. Government Plaintiff
☐ 2 U.S. Government Defendant
☐ 3 Federal Question (U.S. Government Not a Party)
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input checked="" type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from Another District (specify)
☐ 6 Multidistrict Litigation - Transfer
☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

26 USC § 6332(d)

Brief description of cause:

Failure to honor IRS levy

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$
280,469.88

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE _____

DOCKET NUMBER _____

DATE

08/27/2018

SIGNATURE OF ATTORNEY OF RECORD

/s/ Erin R. Hines

FOR OFFICE USE ONLY

RECEIPT # _____

AMOUNT _____

APPLYING IFP _____

JUDGE _____

MAG. JUDGE _____

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